

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STATE OF NEW MEXICO, *ex rel.*
STATE ENGINEER, *et al.*,

Plaintiffs,

V.

EDUARDO ABEYTA, *et al.*,
and CELSO ARELLANO, *et al.*,

Defendants.

)
) **69cv07896 BB**
) **Rio Pueblo de Taos**
) **Adjudication**
)
) **69cv7939 BB**
) **Rio Hondo Adjudication**
) **(Consolidated)**
)
) **Subfile No. RG-18880**
)
)
)
)

ORDER GRANTING MOTION TO AMEND ORDER
AND ADJUDICATE PRIORITY DATE

The Court, having considered the June 10, 2009 Motion to Amend Order and Adjudicate Priority Date (“State’s Motion”) (Doc. No. 5356), filed by the State of New Mexico *ex rel.* State Engineer (“State”), and no objection having been filed, and being otherwise fully advised in the premises, finds that the State’s Motion is well taken and that it should be GRANTED:

IT IS THEREFORE ORDERED,

1. The Court's Order Sustaining Objections and Modifying Special Master's Report ("1976 Order") (Doc. No. 923, September 17, 1976) entered in Subfile No. RG-18880, and amended by the Order entered March 2, 1978 (No. 1322) is further amended as follows:

A. A 1959 priority date, subject to later *inter se* objections, is hereby adopted for the five ponds that were adjudicated in the 1976 Order as lawfully authorized impoundments of surface water. These five ponds are described more particularly as follows:

i. PONDS (Surface Water Only)

Office of the State Engineer File No(s): None

Priority: 1959

Source of Water: An unnamed tributary of Tienditas Creek, which is a tributary of the Rio Fernando de Taos.

Purpose of Use: RECREATIONAL AND/OR SUBDIVISION

Pond Location and Surface Area:

Section 32, Township 25N, Range 15E, N.M.P.M.

NW $\frac{1}{4}$ 0.2 acres

Total 0.2 acres

As shown on the attached Hydrographic Survey Map for Subfile No. RG-18880.

ii. PONDS (Surface Water Only)

Office of the State Engineer File No(s): None

Priority: 1959

Source of Water: An unnamed tributary of Tienditas Creek, which is a tributary of the Rio Fernando de Taos.

Purpose of Use: RECREATIONAL AND/OR SUBDIVISION

Pond Location and Surface Area:

Section 29, Township 25N, Range 15E, N.M.P.M.

SW $\frac{1}{4}$ 0.1 acres

Total 0.1 acres

As shown on the attached Hydrographic Survey Map for Subfile No. RG-18880.

iii. PONDS (Surface Water Only)

Office of the State Engineer File No(s): None

Priority: 1959

Source of Water: An unnamed tributary of Tienditas Creek, which is a tributary of the Rio Fernando de Taos.

Purpose of Use: RECREATIONAL AND/OR SUBDIVISION

Pond Location and Surface Area:

Section 29, Township 25N, Range 15E, N.M.P.M.

SW $\frac{1}{4}$

0.2 acres

Total 0.2 acres

As shown on the attached Hydrographic Survey Map for Subfile No. RG-18880.

iv. PONDS (Surface Water Only)

Office of the State Engineer File No(s): None

Priority: 1959

Source of Water: An unnamed tributary of Tienditas Creek, which is a tributary of the Rio Fernando de Taos.

Purpose of Use: RECREATIONAL AND/OR SUBDIVISION

Pond Location and Surface Area:

Section 29, Township 25N, Range 15E, N.M.P.M.

SW $\frac{1}{4}$

0.5 acres

Total 0.5 acres

As shown on the attached Hydrographic Survey Map for Subfile No. RG-18880.

v. PONDS (Surface Water Only)

Office of the State Engineer File No(s): None

Priority: 1959

Source of Water: An unnamed tributary of Tienditas Creek, which is a tributary of the Rio Fernando de Taos.

Purpose of Use: RECREATIONAL AND/OR SUBDIVISION

Pond Location and Surface Area:

Section 30, Township 25N, Range 15E, N.M.P.M.

SE $\frac{1}{4}$ and

Section 29, Township 25N, Range 15E, N.M.P.M.

SW $\frac{1}{4}$

Total 0.2 acres

As shown on the attached Hydrographic Survey Map for Subfile No. RG-18880.

B. The portion of the 1976 Order directing the Defendant to lower the height of the dams for two ponds held to be unlawful impoundments of surface water is set aside, and said ponds are hereby adjudicated as follows:

i. PONDS (Surface Water Only)

Office of the State Engineer File No(s): None

Priority: 2003

Source of Water: An unnamed tributary of Tienditas Creek, which is a tributary of the Rio Fernando de Taos.

Purpose of Use: LIVESTOCK WATERING

Pond Location and Surface Area:

Section 32, Township 25N, Range 15E, N.M.P.M.

NW ¼

2.39 acres

Total 2.39 acres

As shown on the attached Hydrographic Survey Map for Subfile No. RG-18880.

Pond Volume: 9.7 acre-feet

Dam Height: 13.3 feet

ii. PONDS (Surface Water Only)

Office of the State Engineer File No(s): None

Priority: 2003

Source of Water: An unnamed tributary of Tienditas Creek, which is a tributary of the Rio Fernando de Taos.

Purpose of Use: LIVESTOCK WATERING

Pond Location and Surface Area:

Section 31, Township 25N, Range 15E, N.M.P.M.

NE $\frac{1}{4}$

1.7 acres

Total 1.7 acres

As shown on the attached Hydrographic Survey Map for Subfile No. RG-18880.

Pond Volume: 5.7 acre-feet

Dam Height: 11.7 feet

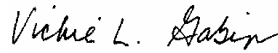
2. Pueblo Hydrographic Survey Map Sheet 27 is hereby amended in the manner shown on the attached *Exhibit 1*.

It is so ordered.



BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Recommended for approval:



VICKIE L. GABIN
SPECIAL MASTER